

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Augustus Quintrell Light,

Petitioner,

Civil No. 06-3611 (RHK)
Criminal No. 03-298 (1) (RHK/RLE)

vs.

ORDER

United States of America,

Respondent.

Before the Court is Petitioner's Motion pursuant to Section 2255 to vacate his judgment of conviction and remand the matter for a new trial. In support, Defendant asserts three grounds:

1. he challenges one of the prior convictions used to enhance his sentence as an armed career criminal;
2. he challenges the trial court's sentence based on Booker; and
3. he challenges the sufficiency of the evidence.

Each of the claims is without merit and can be summarily disposed of. His objections to the inclusion of a 2002 conviction for first degree narcotics possession is moot because that conviction was not needed to support the determination of his armed career criminal status. His criminal history includes a sufficient number of other predicate offenses to support an armed career criminal status without any reliance upon the objected to offense. Accordingly, there is no basis for granting the requested habeas relief on this ground.

The other grounds asserted by Petitioner, Booker and sufficiency of the evidence, were presented to the Eighth Circuit and decided against Petitioner. They cannot be raised again in this proceeding.

Accordingly, and upon all the files, records and proceedings herein, **IT IS**

ORDERED:

1. The Motion pursuant to 28 U.S.C. § 2255 (Doc. No. 1, CV-06-3611; Doc. No. 74, CR-03-298(1)) is **DENIED** and this matter is **DISMISSED** without an evidentiary hearing; and

2. Assuming a request for a Certificate of Appealability, it is **DENIED**.

Dated: January 17, 2007

s/Richard H. Kyle
RICHARD H. KYLE
United States District Judge